IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 17459 of 2007(C)

PETITIONER:

P.K.AMARJITH, S/O.P.K.MANOHARAN,
RAJESWARI BHAVAN, KANNUR-1.

BY ADV. SMT.R.BINDHU SASTHAMANGALAM
SRI.M.P.PRASATH

RESPONDENTS:

1. SMT.P.K.KAMALA, AGED 77 YEARS,
W/O.LATE P.V.BALAKRISHNAN NAIR, PARTNER,
KAMALA INTERNATIONAL TOURIST HOTEL, RESIDING
NEAR TAJMAHAL HOUSE, CHIRAKKAL AMSOM DESOM.

2. P.K.MANOHARAN, AGED 50 YEARS,
S/O.LATE P.V.BALAKRISHNAN NAIR, RESIDING AT
RAJESWARI BHAVAN, POOTHAPARA, AZHIKODE
AMSOM DESOM.

3. SMT.P.K.KRISHNAKUMARI, AGED 60 YEARS,
D/O.LATE P.V.BALAKRISHNAN NAIR, PARTNER,
KAMALA INTERNATIONAL TOURIST HOTEL, 12/A,
CONTONMENT, NEAR GOVT. GUEST HOUSE, KANNUR.

4. SMT.P.K.SREELATHA, AGED 54 YEARS,
D/O.P.V.BALAKRILSHNAN NAIR RESIDING AT
RAJ BHAVAN, 12 CONTONMENT THROUGH POWER OF
ATTORNEY HOLDER, P.K.KRISHNAKUMARI.

BY ADV. SRI.S.VINOD BHAT
SRI.D.ANIL KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C).No. 17459/07.

APPENDIX

PETITIONER'S EXHIBITS:

P1. COPY OF THE ORDER PASSED BY THE ARBITRATOR DTD.21.5.07.

P2. COPY OF THE ORDER PASSED BY -DO- DTD.21.5.07.

Sdk+

///True copy///

P.A. to Judge.

S.SIRI JAGAN, J.

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W.P.(C).No.17459 of 2007

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Dated this the 3rd day of August, 2007

J U D G M E N T

The petitioner challenges the order of the Sole Arbitrator in an arbitration proceedings between respondents 1, 3 and 4 on the one hand, and the 2nd respondent on the other, in which the Arbitrator has directed impleading the petitioner as a party to the proceedings. According to the petitioner, the Arbitrator has no power to implead a third party in arbitration proceedings. In support of his contention, the petitioner relies on the decision in *Shoney Sanil v. Coastal Foundation (P) Ltd.* reported in 2006 (1) KLT 919, in which a learned Single Judge of this court has considered the scope of Section 9 of the Arbitration Conciliation Act, and decided that the Arbitrator cannot pass interim orders involving a third party to the proceedings.

2. Respondents 1, 3 and 4 appear through counsel and submit that it is only because the Arbitrator found that the

petitioner being a partner of M/s.Kamala International with which respondents 1 to 4 are intrinsically connected, the petitioner was sought to be impleaded. He would submit that if the petitioner does not want to involve himself in the arbitration proceedings he keeps away at his own risk, because, according to the respondents 1, 3 and 4, the Arbitration Award would be binding on the petitioner as well. The contention is that it is in the interest of the petitioner himself that he was impleaded in the arbitration proceedings so that he also can have his say in the matter.

3. However, the learned counsel for the petitioner asserts that the petitioner does not want to be impleaded in the arbitration proceedings at all. Going by the decision in *Shoney Sanil's case* (supra) and also considering the provisions of the Arbitration and Conciliation Act, I am of opinion that the Arbitrator cannot bring in additional parties in an arbitration proceedings as the arbitration itself is initiated between two specified parties. As such, I am not satisfied that the petitioner cannot be impleaded in the proceedings against his own wish.

But if ultimately it is found that the award passed in the arbitration proceedings would affect the petitioner also, he cannot take a contention that because he was not party to the arbitration proceedings, the same would not be binding on him. With the above observation this writ petition is allowed and Ext.P2, to the extent it impleads the petitioner as a party to the arbitration proceedings is set aside.

Sd/-
sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.